

### **REMARKS**

The present Amendment is in response to the Office Action mailed May 30, 2006. Claims 1-2, 19, 31, 37 and 42 are amended and claims 1-48 remain pending in view of the above amendments.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

The following remarks focus on the independent claims which have been amended to clarify the claimed invention. The following remarks also illustrate some of the differences between the cited art and the pending claims. Because the independent claims are patentable over the cited art at least for the reasons discussed herein, all of the dependent claims are also believed to be patentable for at least the same reasons. The remarks set forth herein, or lack of remarks, is not to be construed as an acceptance on part of the Applicant as to the Examiner's conclusions regarding the cited art and are not an admission regarding the Examiner's conclusions regarding the cited art. Applicant reserves the right to contest the Examiner's conclusions in their entirety at any future time as necessary.

For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **Rejections Under 35 U.S.C. § 102**

The Office Action rejected claims 1-5, 7-10, 12, 14 and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,781,613 (*Knuth*). Claims 1, 6, 15-16 and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 2002/0176546 (*Dietz*). Claims 1 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 2002/0080925 (*Tokunaga*). As the Examiner is aware, a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628,631, 2

USPQ2d 1051,1053 (Fed. Cir. 1987). The following discussion illustrates that neither *Knuth*, *Dietz* nor *Tokunaga* anticipates the rejected claims.

**Claim not anticipated by *Knuth***

*Knuth*, for example, is directed to a telephone answering device with “calling party identification detection capability that allows a local use to screen telephone calls from callers who purposely block transmittal of their . . . (CPID) information.” *See* col. 2, lls. 5-8. *Knuth* also teaches a device that can provide different outgoing messages based on the CPID information. *See* col. 2, lls. 22-26.

However, the device taught by *Knuth* operates as a telephone answering device that answers the device when the recipient is unavailable. A telephone answering device can replay recorded voice data, but cannot do both. In contrast, claim 1 has been amended to clarify that “receiving voice data” occurs “during a communication session” and that the buffered voice data is replayed “during the communication session”. *Knuth* fails to teach these aspects of claim 1. While the telephone answering device of *Knuth* can record telephone calls, it is unable to replay a “portion of the buffered voice data from the buffer during the communication session while continuing to receive voice data from the sender.” As a result, *Knuth* fails to anticipate claim 1. For at least these reasons, Applicant respectfully submits that claims 1-5, 7-10, 12, 14, and 17 are not anticipated by *Knuth*.

**Claims not anticipated by *Dietz***

Claim 1 has also been amended to require “providing functions on the device related to the buffered voice data, the functions enabling the recipient to alter how the buffered voice data is replayed. As noted in the specification, some of these functions include skipping ahead one phrase to the next silence, stopping the playback of the buffered voice data, jumping to real-time (e.g. when the recipient begins to talk or requests the floor), or saving the buffered voice data as a voice message. *See* ¶ [053].

The ability to alter how the voice data is replayed in this manner is not taught or suggested by the *Dietz*. While *Dietz* suggests that play-back can optionally commence at a time preceding the time marker (*see* ¶ [0019]), *Dietz* teaches that when “the user later re-applies the handset to the ear to resume the coupling, the stored audio signal is played back from the place

indicated by the play-back pointer at a higher rate until the play-back pointer ‘catches-up’ 213 with the record pointer.” See ¶[0017].

There is no teaching or suggestion in *Dietz* of providing functions that enable the recipient to alter how the buffered voice data is replayed. The use of a play-back pointer as taught by *Dietz* suggests that the device plays back the audio until the “play-back audio signal is resynchronized with the real-time audio signal received via the network interface.” See ¶[0017]. Claim 1, in contrast, requires providing functions that enable the recipient to alter how the buffered voice data is replayed. For at least these reasons, Applicant respectfully submits that *Dietz* fails to anticipate claims 1, 6, 15-16, and 18.

**Claims not anticipated by Tokunaga**

*Tokunaga* is directed to a portable phone having a recording function. However, *Tokunaga* fails to teach or suggest replaying the portion of the buffered voice data during the communication session. *Tokunaga* teaches, for example, that the “digital data during the telephone conversation are continually endless-recorded in memory (memory area) 13 so that previous data are updated by new data. At a moment 22 when a switching operation is made, recording into the memory 13 is stopped and alternately the digital data are endless recorded in the memory (memory area) 14.” See ¶[0032].

More particularly, *Tokunaga* teaches “a portable phone having a recording function . . . by which conversation contents can be recorded, even during telephone conversation . . .” See ¶[0011]. However, no suggestion is made of replaying the recorded conversation during the communication session. In other words, *Tokunaga* teaches the ability to record a conversation during a communication session, but fails to teach or suggest replaying a portion of that conversation during the same communication session as required by claim 1. For at least these reasons, Applicant respectfully submits that claims 1 and 11 are not taught or suggested by *Tokunaga*.

**Rejections Under 35 U.S.C. § 103**

Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Knuth* in view of U.S. Patent No. 5,781,613 (5,781,613 (*Yaker*)).

Claims 17, 19, 22, 26, 37 and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Tokunaga* in view of U.S. Patent No. 7,043,266 (*Chaturvedi*).

Claims 19-21, 23-24, 27-30, 37, and 46-48 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dietz* in view of *Chaturvedi*.

Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dietz* in view of *Chaturvedi* and further in view of U.S. Patent No. 5,995,824 (*Whitfield*).

Claims 31-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Tokunaga* in view of U.S. Patent No. 6,665,283 (*Harris*).

Claims 31, 35 and 36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dietz* in view of *Harris*.

Claims 39 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dietz* in view of *Chaturvedi* and further in view of *Harris*.

Claim 41 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dietz* in view of *Chaturvedi* and further in view of *Harris* and further in view of U.S. Patent No. 6,192,259 (*Hayashi*).

Claims 42, 43, and 45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Harris* in view of U.S. Patent No. 6,826,154 (*Subbiah*).

Claim 44 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Harris* in view of *Subbiah* and further in view of *Whitfield*.

Applicant traverses these rejections.

Claim 19 was rejected over *Tokunaga* and *Chaturvedi*. Claim 19 has been amended to clarify the buffered voice data is being replayed while continuing to buffer the voice data. As previously discussed, *Tokunaga* fails to teach replaying at least a portion of the buffered voice data while continuing to buffer the voice data during the instant connect call. As a result, the combination of *Tokunaga* and *Chaturvedi* (only cited as teaching a network based instant connect call) fails to teach or suggest claim 19.

Claim 19 was rejected over *Dietz* and *Chaturvedi*. However, claim 19 has also been amended to require providing functions on the device related to the buffered voice data, wherein the functions enable the recipient to alter how the buffered voice data is replayed, including jumping to real time when the recipient begins talking or requests the floor. As discussed above,

*Dietz* teaches that the “stored audio is played back from the place indicated by the play-back pointer at a higher rate until the play-back pointer “catches-up” with the record pointer.” See ¶ [0017]. No suggestion is present in *Dietz* of providing functions that can alter how buffered voice data is replayed including jumping to real time when the recipient begins talking or requests a floor.

For at least these reasons, Applicant respectfully submits that claim 19 overcomes the cited art and is in condition for allowance.

Claim 31 was rejected over *Tokunaga* and *Harris*. As discussed previously, *Tokunaga* only teaches recording a conversation during the conversation and fails to teach or suggest replaying a portion of the recorded conversation while continuing to record the same conversation. Claim 19 has been amended to clarify that the portion of the buffered voice data is replayed while continuing to buffer the voice data.

Claim 31 was also rejected over *Dietz* and *Harris*. Claim 31 has been amended to required replacing one or more packets . . . without causing a delay in playing the voice data being received at the device. In contrast, *Harris* teaches the use of a NAK message to acknowledge erroneously received packets. See col. 1, lls. 48-50. Upon receipt of the NAK message, the erroneous packets are retransmitted. See col. 1, lls. 55-57. However, integral to this teaching of *Harris* is the use of a jitter buffer which stores the packets until the erroneously packets are retransmitted and received. Although the use of a jitter buffer improves the reliability of a data communication by providing for the retransmission of erroneously received data, “the use of the jitter buffer also produces a delay in the set up of a dispatch communication.” See col. 2, lls. 14-16. As noted by *Harris*, any delay in the time that it takes an audio message spoken into a transmitting communication device to be conveyed to a listener at a receiving communication device is undesirable. See col. 2, lls. 40-44.

In contrast to this teaching of *Harris* as cited in the Office Action, claim 31 has been amended to require replacing one or more packets without causing delay in playing the voice data being received at the device. In this case, claim 31 requires replacing dropped packets in the buffered voice data rather than in the voice data being played. In this manner, the delay suggested by *Harris* is avoided and the quality of the buffered voice data, when replayed, is improved without the delay taught by *Harris*.

For at least these reasons, Applicant respectfully submits that claim 31 is not taught or suggested by the cited art and is in condition for allowance.

Claim 37 was rejected over *Tokunaga* and *Chaturvedi*. Claim 37 has been amended to recite that the replay button causes buffered voice data to be played while continuing to buffer the voice data received during the instant connect call. As previously discussed, *Tokunaga* only teaches recording a conversation during the conversation but fails to teach or suggest replaying a portion of the recorded conversation while continuing to record the conversation.

Claim 37 was also rejected over *Dietz* and *Chaturvedi*. However, claim 37 has been amended to require that the replay button cause functions on the device related to the buffered voice data be provided to the recipient. The provided functions enable a recipient to alter how the recipient can replay the buffered voice data. As discussed above, *Dietz* teaches that the “stored audio is played back from the place indicated by the play-back pointer at a higher rate until the play-back pointer “catches-up” with the record pointer.” See ¶ [0017]. No suggestion is present in *Dietz* of providing functions that can alter how buffered voice data is replayed. In other words, *Dietz* suggests that the stored audio can only be played until it “catches-up”.

For at least these reasons, claim 37 is believed to overcome the cited art and is in condition for allowance.

Claim 42 was rejected over *Harris* and *Subbiah*. Claim 42 has been amended to recite that packets are buffered at a server during a communication session of a connectionless protocol. As discussed in the specification, a connectionless protocol provides little error correction. *Harris*, in contrast, teaches that the erroneous packets are retransmitted by the transmitting communication device when the NAK message is received by the transmitting communication device. See col. 1, lines 54-57. In claim 42, the packets are buffered at a server and can be retransmitted to the recipient device without having to send a message to the sender device. Thus, the transmitting communication device is not involved in the retransmission of the missing packets.

For at least these reasons, claim 42 is not taught or suggested by the cited art and Applicant respectfully submits that claim 42 is also in condition for allowance.

For at least the reasons discussed herein, the dependent claims also overcome the cited art and are in condition for allowance.

### **Conclusion**

In view of the foregoing, Applicant believes the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 30<sup>th</sup> day of November 2006.

Respectfully submitted,

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